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UNCLAS SECTION 01 OF 02 PORT OF SPAIN 000411

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SUBJECT: IS THE LAW CLOSING IN ON PANDAY?

¶1. (U) SUMMARY: The much-awaited corruption trial for UNC Party Chairman and Opposition Leader Basdeo Panday's trial has begun. Panday is on trial for knowingly failing to disclose his interest in a London bank account as required by the Integrity in Public Life Act. Panday claimed he had no knowledge of USD\$200,000 funneled into the account by businessman and UNC contributor Lawrence Duprey, allegedly with no quid pro quo expected. Arguing that other officials have violated the act while only he has been prosecuted, Panday alleged politically-motivated selective enforcement. However, the state pointed to conflicting statements he had made in his defense and showed how he had submitted false declarations while others had simply made listing errors in their submissions. The ruling is scheduled for April 24.  
END SUMMARY.

¶2. (U) Following three and a half years of legal challenges and court adjournments, the trial of opposition United National Congress (UNC) Party Chairman and parliamentary party leader Basdeo Panday began on March 20. Panday is on trial before chief magistrate Sherman Mc Nicolls for knowingly failing to disclose a London bank account to the Integrity Commission in the years 1997, 1998 and 1999, in accordance with the Integrity in Public Life Act, which requires all public officials to disclose annually their income, assets and liabilities.

¶3. (U) During the six-day hearing, Panday testified that, in 1989, he had traveled to London for heart surgery and, while there, he and his wife Oma opened a joint bank account and deposited in it TTD\$85,000 (USD\$14,200) destined to pay for his medical care. According to Panday, after all his medical bills were paid, he had no further knowledge of any transactions that may have taken place in the account, until he began preparing his legal defense. Only then did his wife draw his attention to the fact that, in 1997, she had asked Lawrence Duprey, head of CLICO, a large and successful Caribbean conglomerate with global reach, for TT\$1.2 million (USD\$200,000.) in scholarship money to pay for their daughters' education in London. Duprey, a major contributor to the UNC, obliged and, on March 27, corroborated Panday's testimony, confirming that Oma had indeed approached him with the request for funds. Moreover, Duprey refuted the claim by lead state prosecutor Timothy Cassel that, seemingly in exchange for his generosity, Duprey requested favors from Panday in connection with projects in the energy sector.

¶4. (U) Panday's lead attorney Allan Newman argued that his client's prosecution was part of a "political agenda" designed to oust him from his UNC leadership position and that the decision to charge him constituted an abuse of process. Panday was charged on September 18, 2002, less than one month before the October 7, 2002 parliamentary election. As it turned out, the PNM won the October 7 election with a majority of 20 seats over the UNC's 16

seats.

15. (U) Newman entered several Integrity Commission reports as evidence into the record, showing that, during the past 10 years a number of other top officials, including Attorney General John Jeremie, had failed to file declarations of their income, assets and liabilities with the Integrity Commission or had omitted to declare specific assets to the commission; yet to date, only Panday had been charged under the Integrity in Public Life Act. In addition, Integrity Commission Registrar Albert Alkins testified that another senior government minister had omitted to declare his investments in 12 different companies. Alkins informed the court that failure to file a declaration constitutes just as serious a violation of the law as making a false declaration, as demonstrated by the fact that both offences carry the identical penalty.

16. (U) However, lead state prosecutor Timothy Cassel rebutted Newman's arguments, stating that Newman was "comparing like with unlike." According to Cassel, Panday was charged with failing to disclose an asset and thereby filing a false declaration, as opposed, for example, to Attorney General John Jeremie who had listed a particular registrable interest but failed to list it in the correct location on the form. This was also the case for the senior government minister mentioned earlier. In addition, Cassel pointed to 22 letters Panday had sent to the Integrity Commission, which conflicted with statements he had submitted earlier, all allegedly in order to cover for his failure to declare the London bank account.

17. (U) Chief magistrate Sherman Mc Nicolls is scheduled to rule on the case, on April 24. If Panday is convicted, he

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will face a fine of TTD\$20,000.(USD\$3,333.) on each count and up to 2 years imprisonment. If sentenced to more than 1 year in jail, Panday would be automatically disqualified from the lower house of Parliament.

18. (SBU) COMMENT: Despite Panday's public image as a shady and possibly corrupt wheeler-dealer, this is the first time he has actually landed in court. His allegations of selective enforcement of the disclosure provisions of the Integrity in Public Life Act may have some truth in them. However, they in no way shield him from what seems to be his own culpability under the act. It is simply not credible that he had no knowledge of Lawrence Duprey's infusion of USD\$200,000 into his London bank account. Who did he think was paying for his daughters' education? His argument of selective enforcement may slightly reduce his vulnerability to PNM charges that he is corrupt, but will certainly not inoculate him completely. The "everybody does it" defense does, however, indicate how the UNC plans to confront corruption charges during the next election campaign. END COMMENT.

AUSTIN